

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION

UNITED STATES OF AMERICA

v.

CRIMINAL CASE NO.
AMD-04-029

WILLIE MITCHELL,
SHELTON HARRIS,
SHELLY WAYNE MARTIN,
SHAWN GARDNER,

Defendants

VOLUME XXXI OF XXXVII
Monday, November 24, 2008
Baltimore, Maryland

Before: Honorable Andre M. Davis, Judge
And a Jury

Appearances:

On Behalf of the Government:
Michael Hanlon, Esquire
On Behalf of Defendant Mitchell:
Laura Kelsey Rhodes, Esquire
On Behalf of Defendant Harris:
Gerard P. Martin, Esquire
Paul Flannery, Esquire
On Behalf of Defendant Martin:
Thomas L. Crowe, Esquire
On Behalf of Defendant Gardner:
Barry Coburn, Esquire

Reported by:

Mary M. Zajac, RPR
Room 5515, U.S. Courthouse
101 West Lombard Street
Baltimore, Maryland 21201

1 (Jury starts deliberating at 10:30 a.m.)

2 (The following occurred at 3:44 p.m., with counsel
3 appearing by phone. Defendants not present.)

4 THE COURT: Counsel, good afternoon. Would you, one by
5 one, please, in alphabetical order, identify yourself? We are on
6 the record in the courtroom.

7 MS. RHODES: By order of defendants?

8 THE COURT: That's even better.

9 MS. RHODES: This is Laura Rhodes. I'm here on behalf
10 of Willie Mitchell.

11 MR. MARTIN: Gerry Martin and Paul Flannery on behalf
12 of Shelton Harris.

13 MR. CROWE: Tom Crowe, Your Honor, on behalf of Shelly
14 Wayne Martin.

15 MR. COBURN: Your Honor, good afternoon. Barry Coburn
16 for Mr. Gardner. I'm actually at BWI so please forgive the noise
17 in the background. I'm going to mute the, my handset so that I
18 won't disturb the call.

19 MR. HANLON: Your Honor, Michael Hanlon for the United
20 States.

21 THE COURT: Good afternoon, counsel. I'm doing this on
22 the record in the courtroom because I simply happen to be here
23 when we received the note from the jury. This is totally
24 non-controversial and I simply wanted to alert you to what the
25 jury had said. And I'm sure you will have no objection to my

1 proposal.

2 First, let me mention that, contrary to my original
3 intention, we did order in lunch today for the jury, which was
4 delivered at 12:30. And at about 1:20 or so, at the request of
5 the jury, I permitted them to break for 20 minutes for fresh air.
6 And the jury resumed its deliberation when all 12 jurors were
7 back in the jury room.

8 You will recall that on Friday I actually told them
9 that they were free to take a lunch break from 12:30 for one
10 hour. But since we offered them menus this morning and they took
11 us up on the offer to buy them lunch, we went ahead and did that.
12 So they were only out of the jury room for less than half an hour
13 today.

14 I should also mention, by the way, one of the jurors
15 had a car problem this morning and arrived rather late so that
16 deliberations did not commence and the exhibits and other
17 material were not sent in to the jury room until approximately
18 10:45.

19 Now, we just received the following note, and I'm just
20 going to read it to you. The jury requests information on
21 tomorrow. Will lunch be provided again, for planning? Can we
22 schedule a standard break, leaving room around lunch? We request
23 to resume deliberations at 9:30 a.m. tomorrow. We request to be
24 dismissed today at 4:30.

25 And that's the note. And by the way, in connection

1 with the earlier request in writing, whether they can take a
2 break, I responded in writing on my letterhead in which I told
3 them that they could take a 20 minute break and that they could
4 not resume deliberations until all 12 jurors have returned to the
5 jury room. And I also included the following sentence: Recall,
6 also, that there may be no use of cell phones or other mobile
7 communication devices while you are in the jury room.

8 Okay. So what I propose to do, again, in writing only,
9 of course, on my letterhead is to write back and say, one, yes,
10 we will have you order lunch tomorrow; two, yes, you may take a
11 20 minute break by permission of the Court whenever you make that
12 request in writing; and three, yes, you may leave today at 4:30;
13 and four, yes, you may resume deliberations at 9:30 tomorrow
14 morning.

15 Does anyone have any objection or other requests?

16 MR. HANLON: For the government, Your Honor, no.

17 MR. COBURN: No, Your Honor.

18 MR. MARTIN: No, Your Honor.

19 MR. CROWE: Nothing from Mr. Martin, Your Honor.

20 THE COURT: Okay.

21 MS. RHODES: Nothing from Mr. Mitchell.

22 THE COURT: Okay. Thank you very much. The record
23 will reflect that all counsel have responded that they have no
24 requests. It is now approximately ten of four and I'm going to,
25 frankly, excuse all of you. I'm even going to take a risk and

1 tell the marshals that the defendants may depart at any time.

2 I'm feeling like I should gamble today. I don't think
3 they're going to reach a verdict at 4:30 and I think, in the next
4 30 to 40 minutes at best they'll simply continue to work. And I
5 will have Belinda literally go in and excuse them probably at
6 4:25 by our clock, so that she can collect all of the material
7 and bring it out of the jury room.

8 Okay?

9 MR. HANLON: Thank you, Your Honor.

10 THE COURT: Okay. Thank you all. And we, of course,
11 are like you, waiting to hear.

12 I suppose I'll see you tomorrow one way or the other.
13 Thank you. Good night.

14 (Conclusion of Proceedings at 3:49 p.m.)
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REPORTER'S CERTIFICATE

I, Mary M. Zajac, do hereby certify that I recorded stenographically the proceedings in the matter of USA v. Willie Mitchell, et al., Case Number(s) AMD-04-029, on November 24, 2008.

I further certify that the foregoing pages constitute the official transcript of proceedings as transcribed by me to the within matter in a complete and accurate manner.

In Witness Whereof, I have hereunto affixed my signature this _____ day of _____, 2009.

Mary M. Zajac,
Official Court Reporter